

through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

(5) A licensee's (or other attributable entity's) increased gross revenues due to nonattributable equity investments (*i.e.*, from sources whose gross revenues are not considered under 95.816(d)(4)(iv) of this section), debt financing, revenue from operations or other investments, business development or expanded service shall not be considered to result in the licensee losing eligibility for preferences as a small business or very small business under this section.

(e) *Unjust enrichment.* See §1.2111 of this chapter.

[59 FR 24957, May 13, 1994, as amended at 61 FR 49075, Sept. 18, 1996; 61 FR 60205, Nov. 27, 1996; 63 FR 2350, Jan. 15, 1998]

§95.817 Application for renewal of license.

(a) Each application for renewal of an IVDS system license and for renewal of each individually licensed CTS shall be submitted on a Commission-generated FCC Form 574-R when the licensee has received that form in the mail from the Commission. If the licensee has not received the Form 574-R within sixty days of expiration, application for renewal shall be submitted on FCC Form 405-A.

(b) Each application for renewal must be submitted as part of a renewal package to the address set forth in §1.1102 of the Commission's Rules.

(c) The renewal package must include a cover sheet specifying the licensee's name and address and the service area number and name.

§95.819 License transferability.

(a) IVDS system licenses acquired through competitive bidding procedures may be transferred, assigned, sold, or given away only in accordance with the provisions and procedures set forth in 47 CFR 1.2111.

(b) Except for licenses acquired through competitive bidding procedures, the licensees may not transfer, assign, sell, or give the IVDS system licenses or any component CTS licenses to any other entity until the five year construction benchmark (50 percent coverage) has been met.

(c) Once the five year construction benchmark has been met, licensees of IVDS systems that were not acquired through competitive bidding may transfer, sell, assign, or give the IVDS system licenses together with all of its component CTS licenses to any other entity in accordance with the provisions of §95.821. If the licensee sells or gives away the apparatus the new owner must obtain a new IVDS system license and CTS licenses before placing it in operation.

[59 FR 24958, May 13, 1994]

§95.821 Application for transfer of control.

If an IVDS system licensee agrees to a change in control of the station, the holder must request Commission consent for change of control by filing a Form 703. The licensee shall mail the request, together with the filing fee, to the address specified in §1.1102 of this chapter. The document granting such consent must be kept as part of the IVDS system authorization. An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below-market financing).

[48 FR 35237, Aug. 3, 1983, as amended at 59 FR 9102, Feb. 25, 1994]

SYSTEM REQUIREMENTS

§ 95.831 Service requirements.

Subject to the initial construction requirements of Section 95.833, each IVDS system licensee must make the service available to at least 50 percent of the population or land area located within the service area.

[61 FR 1288, Jan. 19, 1996]

§ 95.833 Construction requirements.

(a) Each IVDS system licensee must make the service available to at least 30 percent of the population or land area within the service area within three years of grant of the IVDS system license, and 50 percent of the population or land area within five years of grant of the IVDS system license. Failure to do so will cancel the IVDS system license automatically. For the purposes of this section, a CTS is not considered as providing service unless that CTS and two associated RTUs are placed in operation.

(b) Each IVDS system licensee must file a progress report at the conclusion of each of the two benchmark periods to inform the Commission of the construction status of the system. The report must be addressed to: Federal Communications Commission, Wireless Telecommunications Bureau, Special Services Branch, 1270 Fairfield Road, Gettysburg, PA 17325-7245. The report must include:

- (1) A showing of how the system meets the benchmark; and
- (2) A list, including addresses, of all component CTSs constructed.

[61 FR 1288, Jan. 19, 1996]

§ 95.835 Station identification.

No RTU or CTS is required to transmit a station identification announcement.

§ 95.837 Station inspection.

Upon request by an authorized Commission representative, the IVDS system licensee must make any component CTS available for inspection.

§ 95.839 Operation in the National Radio Quiet Zone.

(a) Before constructing a CTS in any area within the National Radio Quiet Zone (see § 95.41) or before changing frequency segment, transmitter power, antenna height or directivity, or the coverage area of an existing CTS or RTU located within any area within the National Radio Quiet Zone, the licensee must give written notification thereof to the Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, WV 24944.

(b) The notification must include the geographical coordinates of all component CTS antennas, antenna ground elevation above mean sea level, antenna center of radiation above ground level, antenna directivity, proposed frequency, type of emission, and transmitter power.

(c) If an objection to the proposed CTS is received by the Commission from the National Radio Astronomy Observatory at Green Bank, Pocahontas County, WV, for itself or on behalf of the Naval Research Laboratory at Sugar Grove Pendleton County, WV, within 20 days from the date of notification, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

§ 95.840 Considerations in the Puerto Rico Coordination Zone.

Any applicant for a new IVDS system authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.